

E 416

.J66

LIBRARY OF CONGRESS



00005022757





OF

HON. H. V. JOHNSON.

IN SENATE.

WEDNESDAY, February 28, 1849.

25-10

The Civil and Diplomatic appropriation Bill having been reported to the Senate from the Committee of the Whole, and the question being on concurring in the amendment of Mr. Walker in relation to the Territories acquired from Mexico—

MR. JOHNSON, of Georgia, said: Indisposition during almost the entire present session of Congress has prevented me, if I had desired it, from participating in the discussions of this body. Nor do I feel now that my health justifies me in attempting an elaborate elucidation of the position which I occupy upon the questions which have been discussed in this debate. This fact, in connexion with what I know to be the reasonable and just impatience of the Senate, and the strong and unfavorable contrast which my poor effort must necessarily present to the able speech which has just been delivered by the distinguished senator from New York, [Mr. Dickinson,] impresses me with the conviction that my words should be few, and that I should not unnecessarily consume the time of the Senate. But, notwithstanding these considerations, I feel it a duty which I owe to myself and to those whom I in part represent on this floor, to present, very briefly, the views which I entertain upon some of the topics which have been touched during the progress of this debate.

No man feels more sensibly than I do the importance of giving law and government to our Pacific territories. The considerations which render this necessity obvious are so apparent, and have been so elaborately discussed by those who have preceded me, that I deem it superfluous to

intrude them at length upon the attention of the Senate.

These territories have been acquired by the expenditure of common blood and treasure, and their intrinsic and relative value is beyond computation. The richness of the gold mines of California scarcely finds a parallel in the history of the world. They have been imbedded there for ages—still accumulating by the washings from the adjacent mountains. They have been given to the arts of civilization and commerce as the trophies of American valor. They have produced a profound sensation—not here only, but throughout the civilized world. They are attracting, daily, thousands of our own enterprising citizens, and also crowds from the ports of Europe and the islands of the Pacific. All congregate there, greedy to accumulate wealth, and to appropriate, without let or hindrance, the public property; for these mines are the common property of the States; and, whatever may be said in favor of the right of our own citizens to go thither and disinter their treasures, none will contend that foreigners from the shores of Europe, from South America and the East India islands, should be permitted to indulge in their unrestrained plunder. It is incumbent, therefore, upon Congress to adopt measures, and that without delay, to protect the public property of the United States, and to secure, as far as may be, all its benefits to our own people.

It is indispensable also that our revenue laws should be enforced at all our ports on the Pacific. We have already lost perhaps not less than a quarter of a million for the want of regulations there for the collection of duties on imports. Under our wara-

housing system, vast quantities of imported goods remain in store at all our ports of entry, upon which the importer is not required to pay duties until they are taken out for sale; and, if he desires to reship them to another port in the United States, he has the privilege of removing them without the payment of duties. This regulation is wise and just. But nevertheless, since the discovery of the gold mines in California, and the vast emigration which it has produced, immense cargoes of warehoused goods have been removed, especially from Boston, New York, and Baltimore, and shipped to California, where, the revenue laws not being enforced, they are entered free of duty, and to the great loss of the government. Our government is in debt, and we need all the revenue which our tariff system will yield. This is a strong reason for the adoption of some measure at the present session of Congress which will secure the execution of our laws in those remote territories.

Nor is this all. The location of these territories in relation to the populous islands of the Pacific, China, and the countries of the East, clearly point to an almost boundless commerce, to be realized at no distant day. It is the duty of a wise and expansive statesmanship to encourage an early development of such a commerce by the enforcement of wholesome laws, and the establishment of such institutions, political and social, as will give impulse to the arts of civilization and refinement.

Nor can the duty be less imperative to protect our enterprising fellow-citizens who have gone to California against the violence and anarchy which must exist, wherever there is no mode of punishing the vicious, the dishonest, and lawless. The character of the population there must necessarily be mixed, composed of Indians, half civilized Mexicans and foreigners from every clime. The occupation of mining, as its history shows in all ages and in every country, is debasing to the finer feelings of our nature; it inflames the baser passions, and, without the restraints of law, it is the parent of every vice known to the catalogue of crime. We are, therefore, called upon by every consideration which should influence the action of legislators to extend our laws, and throw over New Mexico and California our

protecting ægis. The necessity for such action is immediate and urgent.

What, then, should be the character of the government which we should give them? The nature of the emergency suggests what ought to be its principal feature. It must combine energy with the capacity for its summary exertion; and, therefore, our legislation should be such as may be put into the most speedy and efficient operation. The amendment now under consideration does, in my judgment, combine these indispensable requisites. It extends immediately such provisions of the constitution and laws of the United States over our territory west of the Rio Grande as are applicable to its condition and necessities. It authorizes the President of the United States "to prescribe and establish all proper and needful rules and regulations, in conformity with the constitution of the United States, for the enforcement of said laws in said territory, and for the preservation of order and tranquility and the establishment of justice therein, and from time to time to modify or change the said rules and regulations in such manner as may seem to him discreet and proper." It also empowers him to "prescribe and establish, temporarily, such divisions, districts, ports, offices, and arrangements proper for the execution of said laws, and to appoint and commission such officers as may be necessary to administer such laws in said territory for such term or terms as he may prescribe, whose authority shall continue until otherwise provided by Congress." Clothed with these powers, it is obvious that the President will be able to give the most speedy and ample protection to the public property of the United States, and secure the gold mines from unauthorized plunder by foreign emigrants. He can enforce the collection of duties on foreign imports, in conformity with our revenue laws; and he can preserve tranquility and good order among the mixed population which is so rapidly congregating there from every point of the compass. All this can be effected with far less delay than by any other mode of organization which we could adopt. It meets the emergency in all its prominent features, and therefore I cheerfully give it my support.

There are, however, some objections to

it, and I am sensible of their weight. But I do not regard them as paramount, and I shall not dwell upon them. Under circumstances less urgent I would not sanction any measure which vests so much power in the hands of the Executive as is conferred by this amendment. But it is intended to be only temporary in its duration; the President is clothed with no legislative powers; and, in the establishment of "needful rules and regulations," he is expressly confined to the limits of the constitution. Moreover, the whole arrangement is liable to be superseded at any moment by the future action of Congress. With these wholesome safeguards there is but little reason to apprehend abuses by the President in the execution of the provisions of this amendment. I will confide in his patriotism, his plighted fidelity to the constitution, and his sense of justice to every portion and interest of the confederacy. I will waive all minor objections for the sake of giving law and government to our unprotected territories beyond the Rio Grande.

The grounds of opposition to this amendment, which have been relied on in this debate, are scarcely worthy of serious refutation. The principal objection urged against it is the one raised by the senator from New Jersey, [Mr. Dayton.] It is, that the constitution of the United States does not extend to territories *proprio vigore*, and that it is not competent for Congress thus to extend it by legislative enactment. Sir, I shall not pause to discuss the question whether the constitution extends *per se* to territories. I am content with the southern view of it, which has been so triumphantly maintained by other senators, and particularly by the senator from South Carolina, [Mr. Calhoun,] in the debate which he conducted on yesterday with the member from Massachusetts, [Mr. Webster.] I entertain not the shadow of a doubt that the constitution of the United States, so far as its provisions are applicable, does extend to territories. I do not believe that the Supreme Court ever has or ever will decide to the contrary. So far from this, I believe the case of *Canter*, in 1 Peters's Reports, page 511, which has been relied on to support the proposition advanced by the member from New Jersey, [Mr. Dayton,] recognises a principle which,

if correct, (and it has never been disputed,) sustains most amply the position for which the South contends. In delivering his opinion in that case, Chief Justice Marshall, speaking of the effect of cession by treaty upon the relations of the inhabitants of the territory ceded, said :

"The same act which transfers their country transfers the allegiance of those who remain in it, and the law which may be denominated *political* is necessarily changed."

It follows, therefore, as an irresistible inference, that the law of the conquering country "which may be denominated *political*" supervenes. Now, what law of the United States "may be denominated political?" Is it not emphatically the constitution? It is perfectly clear, therefore, that, *eo instanti* in which the treaty of peace between this government and Mexico was executed, the constitution, which is the political law of the United States, was extended over the territories of New Mexico and California.

Nor shall I pause to discuss the power of Congress to extend the constitution, by legislative act, over these territories. It is absurd to deny such a power. Lamentable, indeed, is the condition of the inhabitants of New Mexico and California, if it be not competent for Congress to afford them the benefits of our constitution. More lamentable still the condition of those of our fellow-citizens who have emigrated thither in obedience to a spirit of enterprise and adventure, which pervades the entire extent of the republic. The assumption of such a position shows conclusively the subtleties to which the enemies of the South will resort to accomplish their hostile designs against her peculiar institutions.

But, sir, I desire to notice particularly the obvious motive of this leading objection of the senator from New Jersey [Mr. Dayton] to the amendment now under consideration. That motive has been avowed. It has been endorsed by several Senators from the North, and disapproved of but by two or three. I desire to hold it up to the special contemplation of the people of the South that they may examine and weigh it; that they may see and know the feelings which northern gentlemen entertain towards

them. The senator from New Jersey [Mr. Dayton] says:

"But if you do extend its operation by Legislative enactment, then you alter the position of certain great interests in this country. Our friends of the South say that, under the operation of the constitution, they have a right to take slaves wherever that constitution reaches. It does not now reach, according to judicial decisions, to California. You seek, by special act on this amendment, to make the constitution overreach California and New Mexico, and thus give, according to the southern view of their rights under the constitution, a privilege which they would not otherwise have. In the first place, I say that you cannot, by legislative enactment, extend the constitution, and if you did, it would not be right, under existing circumstances, to change the relative position in which parties stand in reference to this slave question, in this indirect way."

Now, sir, what is the plain import of this declaration? It is this: The North declare that the constitution does not extend to territories; and therefore the South can have no right to carry their slaves to New Mexico and California. When it is asked to extend the constitution over them, they say they will not, even if Congress has the power to do so, *because they are unwilling for the South to enjoy the benefits of its guaranties*. Heretofore the North has been content to rest upon their opinion that, under the constitution, the South cannot carry slaves into New Mexico and California. I had thought that the whole controversy related to this single point. But it has assumed a new and alarming aspect. It is now openly avowed that, even though the constitution secure this right, the South is to be solemnly denied its benefit. Sir, I repeat, I wish to present this in bold relief to the people of the South. I wish it to reverberate from the Potomac to the remotest boundary of the southern States, until it shall reach every city, town, hamlet, and habitation, and arouse the down-trodden masses to a sense of the danger to their rights which is threatened by the reckless and exclusive spirit of northern aggression.

Mr. President, some southern gentlemen have expressed surprise at the announcement of such a position. But, sir, I am not surprised. I have long known, and this Senate has occasion to know, that the great body of the North are unwilling to permit the South to enjoy the rights which are guaranteed to her by the constitution in the newly-acquired territories of the United

States. Perhaps it has not heretofore been exhibited in the shape which it now assumes; but it has been manifested in a manner not less equivocal. Has the Senate forgotten the history of the "compromise bill" of the last session? Have they forgotten the main feature which that bill embraced? Sir, what was that history, and what that feature?

Early in the last session of Congress, the Committee on Territories reported a bill to the Senate to form a territorial government of Oregon. The twelfth section of that bill ratified and declared to be in force the laws and ordinances of the provisional government which the people of that territory had established for themselves, in the absence of any organization by Congress.—Among these, there was a decree that involuntary servitude should not exist therein. We of the South believed that to ratify and declare such a restriction to be in force, involved the assumption of the right, on the part of Congress, to prohibit slavery by legislative enactment. Against the exercise of such a power we protested; and therefore an exciting debate was elicited upon the general subject, not only in reference to Oregon, but also California and New Mexico. We exhibited a willingness to vote for the bill, if the twelfth section should be stricken out. Accordingly the senator from Indiana [Mr. Bright] moved to do so. But the question was not taken immediately, and, to the surprise of all the southern senators, he withdrew the motion on the next morning. It was immediately renewed by my colleague, [Mr. Berrien.] Indications were very soon exhibited that the motion could not prevail, and that the slavery restriction would, for the first time, be forced upon us. The senator from Indiana [Mr. Bright] then offered, by way of amendment, what is known as the "Missouri compromise." It was very soon ascertained that this would not pass. The senator from Mississippi [Mr. Davis] then proposed to amend the twelfth section by adding a proviso, "That nothing contained in the said act shall be so construed as to authorize the prohibition of domestic slavery in said territory whilst it remains in the condition of a territory of the United States." Several other amendments, I believe, were

offered by southern senators, having for their object the protection of the rights of the South in our territories. The difficulties of adjustment thickened; the excitement in this body waxed warm, and diffused itself throughout the entire republic; and the public press literally groaned under the utterings of popular solicitude. The ship of State seemed to tremble and creak throughout all her timbers, and the minds of patriots, everywhere, were burdened with painful apprehensions for the safety of the Union. At this moment of intense solicitude, a meeting of southern senators was suggested to devise some mode of action by which the question might be adjusted. We met in the ante-room, irrespective of political names—all party distinctions were laid upon the altar of our common country. The result of our deliberations was, a unanimous determination, if possible, to have the whole subject referred to a select committee of eight, to consist of four from the North and four from the South, and an equal number from each of the respective parties. By common consent, a senator from Delaware [Mr. Clayton] moved the reference, and it was agreed to by the Senate. The select committee was chosen by ballot, and was composed of the honorable mover, a senator from Missouri [Mr. Atchison,] a senator from Kentucky [Mr. Underwood,] and a senator from South Carolina, [Mr. Calhoun,] from the slave States; from the free States, of a senator from New York, [Mr. Dickenson,] a senator from Indiana, [Mr. Bright,] a senator from Rhode Island, [Mr. Clarke,] and a senator from Vermont, [Mr. Phelps.] Sir, these were no upstart politicians, who have been nurtured into notoriety by fawning and by flattery. Most of them are gray haired senators, distinguished for their patriotism, their intelligence, and their protracted service in our public councils. They brought to the weighty task assigned them, grave, deliberative, and an enlarged statesmanship, ripened by many years of experience. After days of anxious consultation, that committee reported the measure known as the "compromise bill." It was hailed everywhere throughout the country as the bow of promise, betokening calm and sunshine. The hope of the parrot revived, as he thought he saw the night retire, which

hung like a funeral pall over our political horizon. Such is a brief history of that bill.

What were the great features of compromise which it embodied? The North contended that they had the right to extend the Wilmot proviso over the territories of the United States, and that it was the imperative duty of Congress to do it. The South solemnly denied and protested against the exercise of such a power. This bill yielded that question on the part of the North, and imposed on Congress the duty of non-interference. That is all which the South has ever asked; and, so far, it was one point of concession to our demand.—Again: Many of our northern friends insisted that the inhabitants of territories possess the right to restrict slavery within their limits; but the South denied this position, and the bill prohibited the Territorial legislature from passing any law "respecting the prohibition or establishment of African slavery." This was the second point of concession made by the North. The North insisted on ratifying and confirming the provisional laws of Oregon, one of which prohibited slavery. The South denied the power of Congress to do this. The bill declared that they should continue in force only until three months after the first meeting of the territorial legislature. This was the third point of concession yielded by the North. These questions being settled positively by the bill, the controversy between the North and the South was narrowed down to a single point; and that was, whether, under the guaranties of the constitution and laws of the United States, the citizens of the South possess the right to carry their slaves into our territories? We maintained the affirmative and the North the negative of this proposition; and, not being able to come to any agreement which would result in satisfactory legislation, both parties, by the thirty-first section of the bill, consented to submit it to the adjudication of the Supreme Court of the United States. If the constitution does guaranty our rights, as we contend, the court would certainly so decide; if it does not, for one I say we ought not to insist on it. The constitution is our bond of union; I am content with its guaranties; I will never knowingly demand anything from our confederates which it does

not justify and sustain. The Supreme Court was established for the very purpose of giving it authoritative interpretation;—and, as a lover of the Union, I am willing to abide its solemn decisions.

One remark more on this point. It is evident that this question between the North and the South must be either a political or a judicial question. If we attempt to settle it in Congress, we make it political:—if we refer it to the Supreme Court, it is judicial. Now I put it to any candid man of the South to say whether it is not safer for us to refer it to the court? If we refer it to Congress as it is now, or is likely to be hereafter constituted, it will, it must be decided against us; for there is a large majority of Wilmot proviso men in the House of Representatives; and the Senate will, I fear, very soon yield to the growing popularity of this pestiferous measure. But if we submit to the adjudication of the Supreme Court, I should entertain no fear of an unfavorable decision. Truth, justice, principle and argument, are all on our side.

These considerations recommended this bill to the favor of the Senate; and, after full debate, it passed this body by a majority of three-fifths. It left the slave question where the framers of the constitution left it—where the constitution itself leaves it. This was the great leading feature of this bill.

Having passed the Senate, under circumstances so impressive, it was transmitted to the House of Representatives for their concurrence. But there was one bright particular star, clustered round by seven paler satellites, whose blended lustre, glancing through the gloom of ignorance which shrouded the intellects of the poor benighted Senate, discovered to the world that it was a surrender of the rights of the South—a surrender “*covert*,” but “no less *complete* and *absolute*”—and that, so far from being a “compromise bill,” it “might be more properly entitled articles of capitulation on the part of the South.” And, without any effort to amend its imperfections, if it had them, without permitting the usual reference to a committee, upon a motion which cut off all debate and excluded all vindication by its friends, this offspring of patriotic deliberation and enlightened states-

manship was consigned to the grave without even the formalities of a respectful interment. By the votes of eight Southern men, united with those of northern barburners and Wilmot Provisoists, this proposition, which granted to the South the benefits of the constitution, was laid on the table.—Out of one hundred and thirty-seven votes, in the House of Representatives, from the free States, there were but nineteen who, on that occasion, showed, by their votes, that they were willing to allow the South the guaranties of the constitution. Looking, then to the interesting history of that bill, the prominent feature which it embodied, and its fate in the popular branch of Congress, I was not surprised at the announcement of the senator from New Jersey [Mr. Dayton] that, if we had the right to extend the constitution to New Mexico and California, “it would not be right, under existing circumstances,” to do so. Sir, it was this sentiment which defeated that “compromise bill,” and, in my judgment, inflicted a heavy wound upon the South. What has been the consequence? It has prevented southern emigration to California. Under the apprehension that they could not carry their slaves with them, citizens of the southern States have not gone there, and the northern States are reaping the benefits of the gold mines. Their people are flocking there by thousands, and will obtain so thoroughly the control of that country in a short time, that they will forever exclude slavery; whereas, if the compromise bill had passed, it would have opened the door for southern emigration. Our people would have gone there. They would have participated in the benefits of working the mines, and have been fairly represented in the organization of the political and social institutions of those territories. If to this inestimable loss to the South be added the agitation and heart-burning, and local strife which have succeeded the defeat of that measure, it can but fill the mind of the patriot with the most painful apprehensions.

I therefore cheerfully support this amendment. I support it for the reason that it is the duty of Congress to extend the protection of law to our recently-acquired territories. I support it because it combines those elements which are suited to the pres-

ent emergency. I support it because it extends over them the constitution and laws of the United States. Less than this amendment contemplates we ought not to do; more, I fear, we cannot do. I doubt if any other proposition will receive the support of both houses of Congress, and it is not very certain that this will.

Mr. President, we have three alternatives before us. We must either adopt this amendment, or we must pass the territorial bill which has been sent us by the House, or we must admit these territories as a State or States into the Union immediately. If we do neither of these things, then we must leave California and New Mexico to the horrors of anarchy.

If I could choose between this amendment and a well-digested territorial bill, I should certainly prefer the latter. It is more in accordance with the usage of our government; and it would allow to the people greater latitude in the exercise and enjoyment of those great principles of republican liberty which are recognized by our constitution. But who does not know that the passage of such a territorial bill at this late period of the session is impossible?— Besides there is no probability that any bill which would be acceptable to the House could pass both houses of Congress. The one which has been sent us from the South contains the Wilmot Proviso; and if we were to strike it out, it is very certain that they would not concur in the amendment. Hence, an acceptable territorial bill at this session is out of the question.

The only other alternative before us is to bring these Territories into the Union immediately. To accomplish this object, two methods have been proposed. The one by the Senator from Tennessee, [Mr. Bell,] is to merge the whole territory of New Mexico and California into one State; and the other, by the senator from Illinois, [Mr. Douglas,] as the chairman of a select committee, proposes to divide them into two States, admit one immediately and the other prospectively. To both these propositions I am at present inflexibly opposed. The former, however, has been rejected, and therefore I shall not attempt to expose its demerits. Nor shall I discuss the question at length as to the power of Congress to

create a State. I rest upon the able and conclusive argument of the Judiciary Committee, presented by their report, upon the bill introduced by the senator from Illinois, at an early period of the session for the admission of California as a State. I shall content myself by simply stating my position without elucidation.

The territories in question are the common property of the several States in their confederated character; and as sovereignty attaches to the ownership of the domain, sovereignty over them necessarily resides in the States. The federal government is in no sense the owner of the territories or of the sovereignty over them. It is the mere trustee of the States. Now, I hold that the creation of a State is the highest act of sovereignty known to political law. How, then, can Congress, which has no sovereignty over the territories, exercise the highest power of sovereignty by creating them into States? Inasmuch as the sovereignty over the territories resides in the several States of the Union, and not in the inhabitants thereof, it follows that they cannot form a State Government, in the sense of the Constitution, without the consent of the States. Congress is the trustee of the States, and the organ through which that consent is to be expressed. All that Congress can do, therefore, is to consent that the people, within certain defined limits of territory, may organize a State government, republican in its form, and be admitted into the Union.— That consent is a pledge, on the part of the several States, that when such a government shall have been organized they will surrender their sovereignty over the territory thus defined; and its admission into the Union is an actual surrender of that sovereignty.

This consent may be given either before or after the formation of a State constitution. When given before, it authorizes the thing to be done; when given afterwards, it ratifies what has already been done.— Hence, I do not deny the right of the people of a territory to assemble and form a Constitution *with a view to admission into the Union*. When done with that view, it is an act of loyalty to the republic. But I do deny that they have the right, without the consent of the

States, through Congress, to organize a government which will constitute them independent of the States of the Union, or which would supersede the temporary government which may have been established by Congress. The relation of the territories to the United States is unquestionably that of dependence and subordination;—and, as matter of right, they can do nothing inconsistent with the sovereignty of the several States over them.

That circumstances may occur which would justify the people of a territory in setting up an independent separate government, I not only admit, but advocate. Territories are held by the United States to be admitted ultimately as members of the confederacy. If their condition is one of subordination and dependence, it is also one of pupillage and protection. It is the relation of parent and child. If, inconsistent with that relationship; if, instead of a foster mother, the Union becomes an inexorable tyrant; if, instead of tutelage, she inflict the evils of vassalage; if she capriciously and unwarrantably refuse to admit it into the Union, after it has obviously attained to the capacity for self-government, the inhabitants of a territory would be absolved from their allegiance, and justified in setting up a separate independence. If the States, in giving their consent, of which I have before spoken, for the people of a Territory to form a State Government, impose conditions or restrictions incompatible with that equality in sovereignty and dignity which appertains to the other States of the confederacy, it would justify it in setting up an independent government. It is upon this ground that Missouri would have been justified in declaring her independence in 1820. She had reached a constitutional majority; she possessed the requisite population to constitute a State of the Union; her people were sufficiently intelligent and virtuous for self-government; she had presented a republican constitution; and she asked to be admitted into the Union, and to be clothed with that sovereignty which resided in the States. But Congress sought to impose upon her a proviso restricting slavery. This was a condition not imposed upon the other States. It was incompatible with that equality and sovereignty which belonged to the

other members of the confederacy. To such a condition she was not bound to submit; and, having a right to admission, without its imposition, she would have been justified in setting up an independent government. So she thought at that day; so thought the people of the Southern States; and so convinced were the northern members of Congress by the powerful argument of Mr. Lowndes, of South Carolina, that they took shelter under the Missouri compromise, and actually forced it, *volens volens*, upon the South. Sir, entertaining these opinions of the want of power on the part of Congress, I could never consent to any bill which attempts to create a State.

The other proposition for admitting these territories into the Union as States is the bill reported by the Senator from Illinois, [Mr. Douglas,] as chairman of the select committee. It provides—

“That Congress doth consent that the portion of the territory of the United States which is included within the following limits, to-wit; beginning in the Pacific ocean, on the parallel 42 degrees of North latitude; thence east on said parallel to the dividing ridge which separates the waters flowing into the Colorado river from those which flow into the Great Basin;—thence along said dividing ridge to the point where it was crossed by Lieut. Col. J. C. Fremont in eighteen hundred and forty-four, as shown on the map of his exploration; thence southwestwardly along the line of said exploration as shown on the map of said Fremont's surveys, published by order of the Senate, in eighteen hundred and forty-eight, to its intersection with the one hundred and seventeenth meridian of west longitude; thence in a direct line to the intersection of the Sierra Nevada mountains with those of the west range; thence due west to the Pacific ocean; thence along the coast including the adjacent islands, to the place of beginning, shall be set apart as the territory of one State, and upon the fulfillment of the conditions hereinafter contained, the same is hereby declared to be one of the States of this Union, by the name and style of the State of California, upon an equal footing with the original States in all respects whatsoever.” And—

“That Congress doth consent that the portion of the territory of the United States which is bounded as follows, to-wit: On the north by the forty-second parallel of north latitude, on the east by the summit of the Rocky mountains and the State of Texas, on the south by the republic of Mexico, and on the west by the proposed State of California and the Pacific ocean, including the islands adjacent to the shore, shall become one of the States of the Union by the name and style of the State of New Mexico, or such other name as the people thereof, shall, in their constitution adopt, upon an equal footing with the original States, in all respects whatever, so soon as it shall contain the proper number of inhabitants; and they shall establish for themselves a constitution and republican form of government.”

Mr. President, this is a departure from long established usage. We have heretofore required the inhabitants of territories to remain in a territorial condition for a series of years. This usage is in strict accordance with the object for which the United States hold territories. We hold territories for the purpose of their ultimate admission into the Union; and their inhabitants occupy the relation of pupilage, to be indoctrinated in the principles of republicanism preparatory to their admission into the confederacy. If there is any reason in this usage, as applied to our other territories, how much more forcibly does it apply to New Mexico and California? Their population is mixed, composed of piebald mongrel races, and but recently severed from the republic of Mexico, whose history for the last twenty years is that of revolution and insubordination.—By what magic have they suddenly become capable of self-government? Why, sir, it is proposed to admit them into the Union before they have become citizens of the United States. By the eighth article of the treaty the inhabitants of New Mexico and California are allowed twelve months from the date of the exchange of the ratifications to make their election whether they will become American citizens or return to the Mexican republic. The exchange of ratifications took place on the 30th of May, 1848, and therefore the people of the newly acquired territories are not citizens until the 30th of May next; but this bill proposes, contrary to all usage, and to the obvious intent of the treaty to incorporate *immediately* the greater portion of them into the Union. Sir, why this haste? Why this prurient anxiety to add another State to this Confederacy? Was it so with Florida? Sir, Florida knocked at your door for admission for five long years. Was Louisiana admitted in such hot haste? No, sir, Florida and Louisiana were slave States, and therefore there was no great eagerness for their admission. But it is certain that, with its present population, California must be a free State, and hence there are those quite willing for her immediate admission. Who are the people that have gone there from the United States? They are mainly citizens from New York and Massachusetts, and they are those who would control in the Convention

which would meet to frame a State constitution. What voice would the people of the South or their institutions have in such an assemblage? Sir, I cannot give my consent to any such proposition. It is a tame and inglorious surrender of the rights of the South. It is the Wilmot Proviso in disguise, and will accomplish all which that odious measure was ever intended to accomplish.

Sir, where is the necessity for admitting these territories into the Union? Is it indispensable to their safety and protection? Or is there any moral or political obligation for us to do so? Have they asked for admission? Are we informed that California has the requisite population? These are grave questions, and ought to be solved to our entire satisfaction, before we can be called upon to add another State to the Confederacy. The amendment of the senator from Wisconsin [Mr. Walker] gives the people of those territories the most ample protection. That is all they can claim; it is all we are bound to give them at the present time. Or, if this is not enough, organize a Territorial government in accordance with settled usage. Let it be liberal in its provisions, and confer upon them all the powers compatible with their relation to the States, and the rights of the States of the Union.

But it is said that no Territorial bill can pass Congress without the Wilmot Proviso, and that by admitting these territories into the Union we avoid that, and thereby settle the agitating question of slavery. I regret to find southern men yielding to this view of the subject. For one I regard it as insulting to the South—as a proposition to her friends to betray her into the hands of her deadliest enemies. Sir, whose fault is it that these territories cannot be organized? Who is it that throws obstacles in the way? Is it the South? No, sir. The South stands with folded hands, except when her rights are sought to be invaded. She acts on the defensive. She claims nothing at the hands of Congress but to be let alone. She is willing to co-operate in any legislation for the benefit of these territories which does not infringe upon her rights. But the very moment any bill is introduced which looks to the formation of territo-

rial governments, the northern factionists seek to incorporate upon it the Wilmot Proviso, which excludes the people of the South from these territories and violates that equality in dignity and sovereignty which, under the constitution, appertains to every State of the confederacy. To avoid this, what are the southern States asked to do? With the fact staring them in the face, that if admitted now California must be a free State, and with the distinct avowal on the part of the North that slavery never shall be extended an inch beyond its present limits, we are seriously asked to incorporate our new territories into the Union, in order to avoid threatened legislative degradation. Sir, if I am to submit to the Wilmot Proviso, let it come undisguised. If the South is to be excluded from the territories, let her not be insulted by an invitation to aid in the operation.

I am not prepared, Mr. President, to pronounce the bill of the senator from Illinois unconstitutional. But everything constitutional is not necessarily just or expedient. I concede the right of Congress to admit California immediately, and New Mexico prospectively. I grant also—nay, I insist—that in the formation of a State constitution, the people have the right to determine for themselves whether they will tolerate slavery as a part of their system of government. But, sir, it becomes a very different question when it is proposed to do this for the avowed purpose of avoiding the Wilmot Proviso, and when it is known that by this method all will be accomplished which the northern agitators desire. It calls upon the South to do that under the influence of a threat which it would be degrading to submit to if executed according to the forms of legislation.

Let it not be inferred from what I have said that I would oppose the admission of a State into the Union on the ground of its being a free State. I have no such feeling. If California and New Mexico shall be required to submit to the usual probation of the territorial condition; if, by just legislation of the part of Congress, the South be allowed a fair chance to participate in the formation of their civil and social system; if the door of emigration be thrown open alike to the citizens of all the States; and

then, if the climate and productions of those regions, without congressional interference shall exclude slavery, and at a proper time the people shall form State constitutions prohibiting its existence, I would cheerfully vote for their admission, even though they be free States. But I cannot at this time with due regard to the interest and honor of the South, vote for their immediate admission, when the South has not enjoyed an equal share of emigration to them, when it is known that they must be free States, and when the proposition is coupled with the declaration that it is the only mode for the South to escape from submission to the Wilmot Proviso. I make no such surrender. I shall insist on the most ample recognition of the rights of the South. She may be deprived of them by the force of superior numbers: but I trust in God her representatives on this floor will never consent that she shall be cheated out of them by indirection and circumvention.

Nor would I have it inferred, from the position which I occupy, that I am opposed to a settlement of the question of slavery. On the contrary, I most anxiously desire it. The prosperity of the country, the safety of the South, and the integrity of the Union, all demand its speedy settlement; and he who would throw unnecessary obstacles in the way for the sake of agitation, is unworthy the esteem and confidence of patriots. Sir, the entire South is ready and anxious to settle it upon any terms which will save her honor and the glory of the Union; and she has given the most conclusive evidence of the sincerity of her purpose. During the last session a large majority of her representatives in both Houses of Congress voted for the Senate "compromise bill;" and almost without a dissenting voice they supported the "Missouri compromise." The South is still animated by a spirit of concession; she is still prepared to yield much for the sake of the Union. But when the temper of conciliation has departed from the North; when we are denied the poor privilege to *compromise*, and when it is distinctly announced by those who have the numerical strength to oppress us, under the forms of unjust legislation, that we shall be excluded from the common territories of the Union, let it not be expected that the South

will co-operate in an indirect mode to effect her own degradation. When compromises are denied her, she will stand firmly upon her constitutional rights.

But, sir, the passage of the bill for the immediate admission of California and the prospective admission of New Mexico will not settle the question of slavery. It might as to that portion of territory designated in the bills as California, but not as the balance called New Mexico; for, in reference to the latter, it is prospective in its operation. It only grants the consent of Congress for it to "become one of the States of this Union" "so soon as it shall contain the requisite number of inhabitants, and they shall establish for themselves a constitution and republican form of government." But what is to be its condition in the interim between that time and the present? Will it not be a territory? Will it not be subject to the legislative supervision of Congress as other territories are? Would not the Wilmot provisoists insist on the extension of the ordinance of 1787 over it so long as it remained in that condition? Surely they would; and at the very next session of Congress we should have two senators on this floor from the proposed State of California to aid them in their nefarious designs. Yet with this fact staring them in the face, southern men are asked to support this bill for the purpose of settling the Proviso question.

But the Wilmot Proviso is not the only question of controversy between the North and the South. Several of the legislatures of the northern States have passed laws to prevent or oppose the recapture of fugitive slaves, and in none of them is it done without annoyance and difficulty. Will the passage of that remove this source of irritation and conflict? A portion of the people of the North insist that Congress should interdict the slave-trade between the States.—Will that bill quiet their demands? Congress is ever and anon besieged with petitions to abolish slavery in the District of Columbia. Will that bill silence these clamors? No, sir; you might as soon expect to heal a man who is covered with "wounds, and bruises, and putrifying sores," by extirpating one ulcer. The spirit of abolition is like the fabled hydra; you may cut off one of his heads, but the loathsomesli-

my serpent still exists, and is eternally hissing and throwing out his thousand forked tongues to insult and annoy us. Sir, the account between the North and South is long and heavy. We have reached that point when the harmony of the Union and the safety of the South require a "settlement in full." All the heads of the hydra must be cut off, and the wounds seared with a red hot iron, else he will yet live, and infuse his deadly poison into every vein and artery of the body politic. No mere legislative expedient will settle the question of slavery. It can only be done by all parties, in the spirit of patriotism, taking their stand firmly on the constitution. Let the North do nothing which it forbids, in word or spirit; and let the South as one man, resolve to submit to nothing that violates its sacred guaranties. This will give quiet to the country, and bind the Union in bonds of adamant.

The South is sought to be placed in the attitude of factions opposition to the organization of these newly-acquired territories, on the ground that their climate, soil, and productions are unsuited to the employment of slave labor. I shall not consider at length the geographical position and features of our Pacific possessions. It is certainly true that much the larger portion of them is unfit for the cultivation of rice, cotton, sugar, and tobacco. Its surface is marked by immense ranges of mountains and trackless deserts, unfit for the habitation of man. But who will deny that slave labor can be profitably employed in working the gold mines of California? It is cheaper, because it costs the owner nothing but the food and clothing of his operatives; and the negro far excels the white man in capacity to endure exposure to a scorching sun, drenching rains, and the hardships peculiarly incident to the business of mining. Besides, there is a considerable portion of these territories—enough for the formation of three States of average dimensions—which lies south of the parallel of 36 deg. 30 min., known as the line of the Missouri compromise. The other States of this Union which lie south of that line are slave States. They are Arkansas, Tennessee, and North Carolina, which lie immediately adjacent to that line. Do they not profita-

bly employ slave labor? Further south are Texas, Louisiana, Mississippi, Alabama, Georgia, and South Carolina. In all these States cotton constitutes the staple product of agriculture, and in several of them rice and sugar are most advantageously cultivated. The southern parts of California and New Mexico lie in the same eastern and western belt of latitude. Why, then, will they not yield the same agricultural products, and consequently afford profitable employment for slave labor? Sir, it is all a mistake. A large portion of our Pacific territories is suited to slavery; and I will add, that no kind of labor will develop so rapidly its immense resources, and prepare it for the abode of enterprise and elevated civilization. Let not the South lose sight of these facts. Let her not be decoyed from vigilance over her rights, or charmed into insensibility to legislative aggression, by the siren song that these territories are not adapted to slavery. They are adapted to it; and if the South will be united in demanding justice at the hands of Congress; if she will be immovable in insisting that the door of unrestricted emigration from all quarters of the Union shall be thrown wide open; if she will maintain, at all hazards, the doctrine of non-interference by Congress, there can be no question that slavery will find its way to New Mexico and California; and that she will yet reap her share of the fruits of the common blood and treasure which were expended in their acquisition.

But, sir, why this incessant clamor on the part of the North against slavery? Is it some great moral plague spot which threatens to infuse mortal disease throughout the body politic? Are those so contaminated among whom it is found that they are unworthy to be the associates of those pure and immaculate philanthropists who weep crocodile tears over the fate of the poor enslaved African? Is it an institution so recent in its origin as to shock the benign spirit of the nineteenth century? Sir, slavery has existed in almost every age and country of the world; and some of the most eminently pious of whom sacred history keeps the record, have sustained the relation of master under the direct cognizance and approbation of Heaven. It had its

origin in Divine decree, and was ordained by the prophetic curse pronounced by Noah upon his son Ham, when he said, "Cursed be Canaan; a servant of servants shall he be to his brethren." This leads the mind to the contemplation of the character of Abraham. He was a most extensive slaveholder. He held slaves by gift and by purchase. He owned three hundred and eighteen that were born in his house. In the modern parlance of the abolitionists he might emphatically be termed a "slave breeder." Yet Abraham was called in "Holy Writ" "the friend of God" and "the father of the faithful."

Sarah, the wife of Abraham, was also a slave-owner; and the anecdote which is recorded of her servant Hagar is full of instruction. When her mistress dealt hardly with her, she fled from her face, "And the angel of the Lord found her by a fountain of water in the wilderness. * * * And he said, Hagar, Sarah's maid, whence comest thou? and whither wilt thou go? And she said, I flee from the face of my mistress Sarah. And the angel of the Lord said unto her, return to thy mistress and *submit thyself under her hand.*" What a pity that some pious abolitionist had not been present to admonish the angel of the Lord of the impropriety of sending her back! Now, slaveholder as she was, Sarah is regarded by the ablest commentators as the type of the Virgin Mary, who was the mother of the Saviour of mankind.

Isaac was a slaveholder; for it is written of him that he had possession of a "great store of servants." Jacob also was a slaveholder; for it is said of him that he "increased exceedingly and had much cattle and *maid servants and men servants.*" I might enumerate a long catalogue of the ancient pious, who were the owners of slaves. But I hasten on.

Now if slavery is so great a moral evil, so repugnant to the laws of God, so abhorrent to the feelings of our common humanity, why was it that these favorite followers and worshippers of the Most High tolerated it, and were tolerated in its enjoyment by Heaven? Why was it not prohibited by the Almighty, when he gave laws to his people? There were many occasions when it would have been most appropriate, if He

had designed to manifest towards it his high and holy displeasure. How easy to have done so, when He delivered the ten commandments? That was an occasion of awful grandeur and unutterable solemnity. The summit of the burning mount was enveloped in cloud, and the earth trembled under the footsteps of Jehovah, in attestation of his ineffable glory and power. The code which he there promulgated was designed to embrace the great fundamental principles of all proper government, moral and civil. It was to be binding through all time, upon all men and all nations, and to establish the unerring standard of right and wrong. Why did not the Great Lawgiver of the universe, on this impressive occasion, either forbid slavery or indicate his disapprobation of it? But, so far from this, he recognises its existence, and laid his injunction upon man in reference to it. The last of the decalogue, says: "Thou shalt not covet thy neighbor's house, thou shalt not covet thy neighbor's wife, nor *his man servant, nor his maid servant*, nor his ox, nor his ass, nor anything that is thy neighbor's." Here servants are recognised as subjects of ownership, and placed, as property, in the same category with the ox and the ass.

Nor was slavery discountenanced by Christ, under the new dispensation. He mingled freely and extensively among men—was at public festivals, and was the instructor of all ranks and classes of men; and on no occasion did vice escape him unrebuked, or error unreprieved. The avowed object of his mission on earth was to found a system of ethics for the government of men and society, whose principles should be universal in their application, and suited to both worlds in their claims upon the obedience of mankind. He found slavery in existence, as part and parcel of the organization of society, and sanctioned by time and immemorial usages. But he uttered no word of condemnation against it. On the contrary, he said, "think not that I am come to destroy the law or the prophets; I am not come to destroy, but to fulfill." He did not come to interfere with the settled order of things as he found them. He did not come to subvert the civil institutions which had been established. But he came to deal with man as he found him, and to

instruct him in his duties, in all the existing relations of society. Hence, we find the New Testament abounding in passages which not only recognise the existence, but the legality of slavery. Who was better informed as to the principles which should govern the conduct of men than the Apostle Paul? Who more fearless in denouncing vice and error, wherever found, whether in the walks of obscurity or the favored incumbents of kingly thrones? Yet he nowhere condemned slavery, or uttered bitter maledictions against the slaveholder. But, on the contrary, he laid down rules for the regulation of the duties of masters and servants. In writing to the Colossians, he said, "servants obey in all things your masters, according to the flesh; not with eye-service, as men pleasers, but in singleness of heart, fearing God." In his letter to the Ephesians, he directs, "servants be obedient to them that are your masters, according to the flesh, with fear and trembling, in the singleness of your heart as unto Christ." In his first letter to Timothy, he writes, "let as many servants as are under the yoke count their own masters worthy of all honor, that the name of God and his doctrine be not blasphemed." In his epistle to Philemon there is an incident so applicable to the present time and to this discussion, that I cannot omit to notice it. Philemon, a professor of religion, owned a slave by the name of Onesimus, who ran away from his master and got to Rome, where Paul was preaching. Under the powerful ministrations of the great Apostle he was converted to the faith of Christianity. He became acquainted with Paul, and doubtless confessed that he was a fugitive from his master's possession. What now was the conduct of this pious herald of the Cross? Did he harbor and conceal this slave from his owner, as do our very philanthropic abolitionists of the present day? Did he indulge in puling sympathy, and seek to render him dissatisfied with his condition? Did he endeavor to poison his mind and inflame his prejudices against his rightful master? No. He sent him back to his owner, and offered to indemnify him for the loss of his services during his absence. He wrote to Philemon that if his slave had wronged him or owed him aught, to put it to his account. "I, Paul,

have written it with mine own hand; I will repay it." Sir, what a rebuke to the modern abolitionist! How completely does this remove all imputation against slavery as contrary to the rules of moral rectitude!—Sir, it gives a high and holy sanction to that provision of our constitution which requires, on the part of the free States, the prompt surrender of our fugitive slaves.

The institution being thus sanctioned by Revelation, and entrenched behind the impregnable ramparts of the constitution;—I repeat the inquiry, why this incessant crusade against the South and her just claim to an equal participation in the common territories of the Union? Has not the South been ever loyal to the constitution? Has she not borne, without a murmur, her share of the public burdens? Has she not been prompt to contribute her money and her men to defend the rights and honor of our flag? Has she not for many long years consented to be fleeced, in the way of high tariffs, by which northern manufacturers have been enriched, and the North and West made prosperous, under the expenditure of extravagant appropriations for works of internal improvements? Sir, it is time this warfare against the South had ceased. It has been kept up long enough.

The Union was formed for the general good; for defence against foreign invasion, and to secure domestic tranquillity. The southern States came into it in good faith. When the constitution was adopted, slavery existed in nearly all the States; and the great object of its framers was, not to consider how it might ultimately be abolished, but to throw around it the most ample guaranties. This Union never could have been formed upon any other basis than that of the most absolute equality between the States. The slave States never would have entered into the compact upon any other condition. They never would have agreed to it, if they could have even anticipated that a methodical and organized attack would have been made by Congress upon their domestic institutions. Sir, it is all in violation of the spirit and letter of the constitution. It is at war with everything like good faith and political fraternity. It must cease, or the Union will be destroyed; it cannot withstand an agitation so vital, so

fundamental. It affects the very foundation of the government, and if continued will lay the glorious fabric in ruins.

It has been intimated during this debate that the South would finally submit to the aggressions of the North. Let not gentlemen deceive themselves. The people of the South will endure evils while evils are tolerable. But there is a point beyond which forbearance ceases to be a virtue, and at which patience waxes into desperation. Sir, what mean the resolutions of State legislatures which have been piled in rapid succession upon your table during the present session of Congress? Virginia, North Carolina, South Carolina, and Florida have all spoken a language not to be misunderstood; and if the legislatures of the other southern States had been in session, they would have uttered similar sentiments. Is it supposed that the people of the South are dastardly; that they are not serious in their public resolves; and they have so far degenerated from the chivalry of their ancestry as to pass complacently under the iron yoke of northern aggression? Let not gentlemen deceive themselves. The South have too much at stake. Their domestic peace, their property, their honor, their all, are involved in the contest. Not less than ten hundred millions in value of their slave property are jeopardized by this spirit of fanaticism and aggression. Does the history of the world furnish a single instance of a people so cravenhearted as to submit to the unresisted hazard of the security and safety of so vast an amount of property? Sir, I am authorized to utter no word of menace on this floor, but I ask gentlemen to study well the value of the interests involved and the lofty elements of southern character, before they mature the opinion that the southern States will tamely submit to insult, degradation, and plunder under the forms of legislation.

The senator from New Jersey [Mr. Dayton] admitted the possibility that the South might secede—that she might retire with chagrin, like Achilles to his tent; but that ere long she would find something knocking at the door of her mighty heart, and she would return again. I trust, sir, that the South may never have sufficient

cause to assume the attitude of secession from this glorious Union. But if she should, the gentleman's illustration would be as false as it is beautifully classic.—Why should the South return again, if driven from the Union by its injustice and oppression? I cannot imagine, unless it would be to enjoy the distinguished entree into good society, which is kindly extended to southern gentlemen at the North, notwithstanding they are slaveholders. From my very heart I thank our northern friends for their condescending hospitality, which has been so vividly portrayed by the senator from New Jersey. But I confess I should be much more thankful if our northern benefactors would be less hospitable to our fugitive slaves. If, however, it be true that the South would return, is it wise, is it patriotic, by a course of unnecessary and unconstitutional legislation, to force the experiment? Is it not the part of elevated and enlightened statesmanship to pause ere you have reached the verge which overlooks so fearful a precipice?

In maintaining the position which I do, I disavow any intention to produce sectional prejudices, or to foment local agitation.—I deprecate the formation of geographical parties. I feel that every inch of soil which is sheltered by our stars and stripes is a part of my home and a part of my inheritance. All I mean to say is, that if the Union, instead of a shield to protect, is converted into a weapon to wound, there is a settled determination among the people of the South to vindicate themselves, their rights of property, and domestic altars, I for one am prepared to share their fate. We claim nothing at the hands of Congress but non-interference. We do not ask you to extend slavery; we say you must not prohibit it. We say that New Mexico and California are the common property of the States, and that we have the same right to carry our slaves there which the New England man has to carry his spindles or his looms. In this position the South feels that she is sustained by the constitution; and there she intends to stand.

In speaking thus, the South does not desire to be considered as using the language of menace. That would be unworthy of herself, and incompatible with her elevated

sentiment of conscious rectitude. It would be unjust to the North, because it would imply that she could be moved by intimidation. What the South means is this: Having entered the Union in good faith, she will abide the compromises of the constitution; and she expects the North to do likewise. But if this cannot be so; if, having the numerical majority, the North will trample on our rights, outrage our feelings, and disregard our political equality as confederates, we cannot be held to abide the violated bond. We say so in advance, not to intimidate, but to arouse the patriotism of the North, their love of the Union, and their regard for justice, to the end that they may voluntarily pause ere they provoke consequences to be deplored by every lover of liberty and every friend of good government.

The South is devoted to the Union. She venerates its institutions. She glories in the recollection of the brilliant deeds of its founders. But the Union of her affections is that which was formed by the constitution, "to establish justice, *insure domestic tranquility* provide for the common defence, promote the general welfare, and secure the blessings of liberty." If, through the blindness of fanaticism or the folly of unwarranted legislation, it becomes subversive of these ends, and be transformed into an engine to oppress the South, it will cease to be an object of love and pride, and will forfeit all title to her allegiance. But if the spirit that animated the fathers of the republic can be revived; if the spirit of justice, conciliation, and fraternity which presided over their deliberations could be infused into the bosoms of their descendants; if, under the inspiration of such a spirit, our northern friends would approach the constitution, and, on its consecrated altar, sacrifice all but pure and elevated patriotism; if they would deal justly with the South, and exhibit towards her sentiments of liberality and kindness, this Union would be as permanent as the eternal hills; and the sons of the sunny clime from whence I come, glorying in our "star-spangled banner," would coin their hearts, if need be, into ducats, and pour them into the public lap to vindicate the national honor.



